

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE JUNE 1, 2005

AMENDED IN SENATE MAY 12, 2005

AMENDED IN SENATE APRIL 11, 2005

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**SENATE BILL****No. 517**

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**Introduced by Senator Romero**

February 18, 2005

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An act to add Sections 60851.1, 60852.7, ~~60852.8, and 60852.9~~ and ~~60852.8~~ to the Education code, relating to pupil assessment, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 517, as amended, Romero. High school graduation.

Existing law requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop a high school exit examination in accordance with state academic content standards. Existing law requires, commencing with the 2003-04 school year and each school year thereafter, each pupil completing grade 12 to successfully pass the high school exit examination as a condition of graduation from high school. Existing law grants authority to the state board to delay, on or before August 1, 2003, the date upon which each pupil completing grade 12 is required to pass the high school exit examination as a condition of graduation from high school to a date other than the 2003-04 school year.

This bill would require the Superintendent of Public Instruction to certify that each high school ranked in deciles 1 to 3, inclusive, of the Academic Performance Index and identified for review by a county

superintendent of schools offers full and equal access for all pupils to specified minimum conditions necessary for successfully passing the high school exit examination. This bill would require the Superintendent of Public Instruction, by September 1 of each year, to prepare and submit a report to the Legislature that compares specified conditions in high schools with regard to the high school exit examination. This bill would impose a state-mandated local program by requiring any school district, charter school, or other local educational agency with a high school not certified by the Superintendent to prepare and submit, by July 1 of each year, a report to the State Board of Education and the Superintendent that identifies the barriers to providing the minimum conditions necessary for success on the high school exit exam and specifies the actions to be taken by the school district to ensure that pupils will receive those minimum conditions.

This bill would require the Superintendent, by January 31, 2006, and subject to approval by the State Board of Education, to develop a request for a proposal for an independent consultant to perform specified duties, including, but not limited to, recommending alternatives to the high school exit examination that specified pupils can use to demonstrate eligibility for graduation from high school. ~~This bill would appropriate \$400,000 from the General Fund for this purpose.~~ *The bill would provide that implementation of these provisions is subject to the availability of funding pursuant to appropriation by the Legislature in the annual Budget Act or in another statute, and that if state funding is not available for implementation of these provisions, these provisions may be implemented with the use of private funding that is sufficient to pay the costs of implementation.*

This bill would establish a selection panel to be appointed as specified, and would require the panel, by April 30, 2006, to select an independent consultant. This bill would require the Superintendent of Public Instruction, by April 30, 2006, to establish a High School Exit Examination Advisory Panel, consisting of 13 members, as specified, to advise the independent consultant in performing his or her duties. ~~This bill would appropriate \$100,000 from the General Fund for this purpose.~~ *The bill would provide that implementation of these provisions is subject to the availability of funding pursuant to appropriation by the Legislature in the annual Budget Act or in another statute, and that if state funding is not available for*

*implementation of these provisions, these provisions may be implemented with the use of private funding that is sufficient to pay the costs of implementation.*

~~This bill would appropriate \$57,000,000 from the General Fund for the 2005-06 fiscal year to the State Department of Education to distribute to school districts as a block grant for specified purposes. This bill would require that funds appropriated in specified Budget items be available for those purposes.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Harvard University Civil Rights Project's report titled
- 4 "Confronting the Graduation Rate Crisis in California" found
- 5 that California's overall high school graduation rate was 71
- 6 percent for 2002.
- 7 (b) This Harvard report found that only 64 percent of all pupils
- 8 in central city school districts graduate with regular diplomas. In
- 9 racially segregated school districts, only 65 percent of all pupils
- 10 graduate, and only 58 percent graduate in socioeconomically
- 11 segregated school districts.
- 12 (c) When high numbers of youth leave school ill prepared to
- 13 contribute to our labor force and to civic life, our economy and
- 14 our democracy suffer. The Harvard report found that the 66,657
- 15 pupils who were reported as dropouts from the California public
- 16 schools in 2002-03 will cost the state \$14 billion in lost wages.
- 17 (d) A report by the University of California All Campus
- 18 Consortium on Research for Diversity (UC/ACCORD) found
- 19 that in the state's largest school district, Los Angeles Unified

1 School District, fewer than half of the African American and  
2 Latino pupils who start 9th grade complete grade 12 four years  
3 later.

4 (e) The number of pupils who are at risk of failing the state's  
5 high school exit examination is likely more than 100,000  
6 statewide.

7 (f) A 2004 survey of over 1,000 California teachers by pollster  
8 Lou Harris found that 10 percent of teachers reported pupils did  
9 not have access to their own standards-aligned instructional  
10 materials to use in class, and 32 percent of teachers reported that  
11 pupils did not have access to their own standards-aligned  
12 instructional materials to take home for homework. Thus, it is  
13 estimated that, at a minimum, 10 percent of pupils statewide do  
14 not have standards-aligned instructional materials to use in class,  
15 and 32 percent of pupils statewide do not have standards-aligned  
16 instructional materials to take home to use for homework.  
17 Schools with the highest concentration of pupils of color were 40  
18 percent more likely than other schools to lack instructional  
19 materials.

20 (g) The 2004 Harris survey found that teachers in the schools  
21 with the highest percentages of African-American, Latino, and  
22 Native American pupils report that they are 11 times more likely  
23 to be in schools in which more than 20 percent of the teachers are  
24 undercredentialed and lack the training to teach the state's  
25 content standards.

26 (h) The most critical factor in pupil achievement is a qualified  
27 teacher. A recent report by Education Trust-West, titled  
28 "California's Hidden Teacher Spending Gap," reported dramatic  
29 spending gaps in teacher salaries within districts, with more  
30 highly paid teachers and, therefore, more experienced and highly  
31 credentialed teachers, concentrated in more affluent and white  
32 schools. Pupils of color and pupils from low-income families  
33 receive, at a disproportionately higher rate, instruction from  
34 underqualified teachers who have not been trained to teach the  
35 state's content standards.

36 (i) A 2004 report by the Center for the Future of Teaching and  
37 Learning, titled "California's Teaching Force 2004: Key Issues  
38 and Trends," reported that in 2003–04, slightly more than 28,000  
39 teachers — or about one in every 11 California teachers — were  
40 underprepared and teaching without benefit of having met the

1 state's minimum qualifications, and without training to teach to  
2 the state's content standards. There are far more of these  
3 underprepared teachers in schools that have high failure rates on  
4 the high school exit examination. In schools where over 30  
5 percent of pupils failed the mathematics portion of the exit  
6 examination the average percentage of underprepared teachers is  
7 22 percent. By comparison, in schools where only 9 percent of  
8 pupils failed the mathematics portion, the average percentage of  
9 underprepared teachers is only 7 percent.

10 (j) California has recently acknowledged in the settlement of  
11 Williams v. State of California, that the established minimum  
12 thresholds for teacher quality, instructional materials, and school  
13 facilities are intended by the Legislature and the Governor to be  
14 a floor, rather than a ceiling, and a beginning, not an end, to the  
15 state's commitment and effort to ensure that all California pupils  
16 have access to the basic elements of a quality public education.

17 (k) A 2004 survey of 34 high school principals from 19 school  
18 districts reveals that 59 percent of those principals do not have  
19 plans to ensure that all prehigh school pupils are prepared to  
20 receive instruction in each of the content standards.

21 (l) A 2004 survey of 135 teachers and 23 high school  
22 principals from 53 schools in 19 school districts reveals that 49  
23 percent of teachers and 48 percent of principals identified  
24 academic issues of entering high school below grade level  
25 proficiency and lacking adequate preparation as specific  
26 challenges their pupils face in passing the exit examination.

27 (m) California ranks last in the nation in the ratio of pupils to  
28 counselors at 954:1. School counselors serve a vital role in  
29 promoting pupil achievement and serving as pupil advocates who  
30 focus on the relationships and interactions between pupils and  
31 their school environment, with the expressed purpose of reducing  
32 the effect of environmental and institutional barriers that impede  
33 academic success.

34 (n) It is essential that California provide the minimum  
35 opportunities for all pupils to learn the skills and material that  
36 they need to learn in order to pass the high school exit  
37 examination.

38 SEC. 2. Section 60851.1 is added to the Education Code, to  
39 read:

60851.1. (a) The Superintendent shall certify that each high school ranked in deciles 1 to 3, inclusive, of the Academic Performance Index pursuant to Sections 52052 and 52056, and identified for review by a county superintendent of schools pursuant to subparagraph (A) of paragraph (2) of subdivision (c) of Section 1240, offers full and equal access for all pupils to all of the following minimum conditions necessary for successful passage of the exit examination:

(1) Fully certificated teachers, including teachers for English learners, in core subject areas, to be determined based on the most current department data from the California Basic Educational Data System and, as necessary, on the annual Language Census conducted by the department.

(2) Instructional materials, as defined in subdivision (h) of Section 60010, aligned with the content standards being tested on the exit examination. For purposes of this paragraph, the Superintendent shall utilize information from the annual instructional material review performed by the county superintendent of schools pursuant to subparagraph (E) of paragraph (2) of subdivision (c) of Section 1240.

(3) Rigorous supplemental instruction programs for pupils who have not passed either part of the exit examination, which are in addition to the regular instruction of pupils, pursuant to subdivision (f) of Section 60851.

(4) Counselor-to-pupil ratios of at least 1:476, so as to support the guidance of pupils in their successful passage of the exit examination, to be determined based on the most current department data from the California Basic Educational Data System.

(b) By September 1 of each year, the Superintendent shall prepare and submit a report to the Legislature that does all of the following:

(1) Identifies the high schools that do not meet the conditions for certification pursuant to paragraphs (1) to (4), inclusive, of subdivision (a), including the conditions in which each of the high schools identified is deficient.

(2) Compares the high schools identified in subdivision (a) that have not been certified by the Superintendent to high schools where failure rates on the high school exit examination for the most recent graduating class are ten percent or less.

(3) Compares the following conditions to the extent that data is available:

(A) Failure rates on the high school exit examination.

(B) Pupil access to fully certificated teachers, standards-aligned instructional materials, and rigorous supplemental instruction programs.

(C) Counselor-to-pupil ratios.

(c) (1) A school district, charter school, or other local educational agency with a high school not certified by the Superintendent pursuant to subdivision (a) shall prepare and submit, by July 1 of each year, a report to the State Board of Education and the Superintendent that identifies the barriers to providing the minimum conditions necessary for success on the high school exit exam and specifies the actions to be taken by the school district to ensure that pupils will receive the minimum conditions specified in subdivision (a).

(2) The governing board shall present the report required by paragraph (1) for public comment at a regularly scheduled meeting, before it is provided to the State Board of Education and the Superintendent.

(3) For any high school that participates and receives funding through the Immediate Intervention/Underperforming Schools Program established pursuant to Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28, the High Priority Schools Grant Program established pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28, or the federal Comprehensive School Reform Demonstration Program (20 U.S.C. Sec. 6511 et seq.), or is considered a program improvement school under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), the governing board of the school district or other local educational agency shall ensure that the action plan prepared for the school is used to fulfill the requirements of paragraph (1).

SEC. 3. Section 60852.7 is added to the Education Code, to read:

60852.7. (a) By January 31, 2006, the Superintendent shall develop, and the State Board of Education shall approve, a request for a proposal for an independent consultant to do all of the following:

1 (1) Identify the barriers to successful completion of the high  
2 school exit examination.

3 (2) Recommend alternatives to the high school exit  
4 examination that high school pupils, including, but not limited to,  
5 English learners and pupils who have not received sufficient  
6 instruction in English language arts and mathematics to pass the  
7 high school exit examination, can use to demonstrate eligibility  
8 for graduation from high school.

9 (b) By April 30, 2006, a selection panel consisting of one  
10 representative appointed by each of the following persons and  
11 entities shall select an independent consultant:

12 (1) The President pro Tempore of the Senate.

13 (2) The Speaker of the Assembly.

14 (3) The Legislative Analyst.

15 (4) The department.

16 (5) The Department of Finance.

17 (c) It is the intent of the Legislature that the independent  
18 consultant possess expertise on all of the following items:

19 (1) The Standards for Educational and Psychological Testing  
20 created by the American Psychological Association, the  
21 American Educational Research Association, and the National  
22 Council on Measurements in Education.

23 (2) Applicable state and federal laws on high-stakes testing.

24 (3) Fair assessment methodologies concerning English  
25 learners and pupils who have not received sufficient instruction in  
26 ~~in-English language~~ *English-language* arts and mathematics to  
27 pass the high school exit examination.

28 (d) (1) The independent consultant shall, in consultation with  
29 the advisory panel established pursuant to Section 60852.8,  
30 prepare a report that does all of the following:

31 (A) Identifies applicable principles and provisions of state and  
32 federal laws and regulations that are relevant to graduation  
33 requirements and assessments for pupils who are English  
34 learners, pupils who have not received sufficient instruction in  
35 English language arts and mathematics to pass the high school  
36 exit examination, and pupils who are members of the subgroups  
37 identified in Chapter 6.1 (commencing with Section 52050) of  
38 Part 28.

39 (B) Assesses the extent to which English learners, low-income  
40 pupils, and pupils who are members of the subgroups identified



1 in Chapter 6.1 (commencing with Section 52050) of Part 28 are  
2 being provided with fair and equal access to the content tested on  
3 the high school exit examination, with particular attention on  
4 schools where the first-time failure rate on the exit exam is 20  
5 percent or greater for the graduating class of 2006.

6 (C) Recommends the steps needed to bring California into full  
7 compliance with the state and federal laws and regulations  
8 identified in subparagraph (A) and to ensure that all pupils have  
9 a fair and equal opportunity to learn the content standards being  
10 tested on the high school exit examination and demonstrate  
11 proficiency in the content standards being tested on the high  
12 school exit examination.

13 (D) Recommends options for graduation requirements and  
14 assessments for pupils who are English learners.

15 (E) Recommends interim options for graduation requirements  
16 and assessments for pupils who have not received sufficient  
17 instruction in ~~English language~~ *English-language* arts and  
18 mathematics to pass the high school exit examination and for  
19 implementation until the time that pupils are provided with fair  
20 and equal access to exit examination test content.

21 (F) Include the concerns and recommendations of the advisory  
22 panel.

23 (2) The independent consultant shall submit a preliminary  
24 report of findings to the advisory panel established pursuant to  
25 Section 60852.8.

26 (3) The independent consultant shall submit the final report to  
27 the members of the advisory panel, the Legislature, the  
28 Legislative Analyst, the Department of Finance, and the  
29 department no later than December 1, 2006. The independent  
30 consultant shall submit the final report to other interested parties,  
31 as appropriate.

32 (e) The Superintendent may, upon approval of an expenditure  
33 plan by the State Department of Finance and the Joint Legislative  
34 Budget Committee, provide funds for the purposes of  
35 implementing the recommendations provided pursuant to  
36 subparagraphs (C) to (E), inclusive, of paragraph (1) of  
37 subdivision (d).

38 (f) *Implementation of this section is subject to the availability*  
39 *of funding pursuant to appropriation by the Legislature in the*  
40 *annual Budget Act or in another statute. If state funding is not*

1 *available for implementation of this section, this section may be*  
2 *implemented with the use of private funding that is sufficient to*  
3 *pay the costs of implementation.*

4 SEC. 4. Section 60852.8 is added to the Education Code, to  
5 read:

6 60852.8. (a) The Superintendent shall, by April 30, 2006,  
7 establish a High School Exit Examination Advisory Panel,  
8 consisting of 13 members, to advise the independent consultant  
9 selected pursuant to Section 60852.7. The members of the  
10 advisory panel shall be composed of the following individuals:

11 (1) Three parents or guardians of pupils in high schools with a  
12 first-time failure rate of greater than 20 percent on the high  
13 school exit examination for the first administration to the  
14 graduating class of 2006.

15 (2) Three teachers fully credentialed in the subjects being  
16 tested on the exit examination who work with low-income pupils  
17 and English learners.

18 (3) Two representatives of institutions of higher education that  
19 offer teacher preparation programs who are expert in curriculum  
20 and assessment, including performance assessment, and who  
21 work with low-income pupils, English learners, and pupils of  
22 color.

23 (4) Two school administrators whose duties relate to the  
24 provision of services to low-income pupils, English learners, and  
25 pupils of color.

26 (5) A representative from the department.

27 (6) A representative of a vocational, community, or business  
28 organization concerned with high school pupils attaining  
29 minimum academic and workplace skills upon graduation.

30 (7) A representative of community-based organizations  
31 providing services or advocating on behalf of low-income pupils,  
32 English learners, and pupils of color.

33 (b) The members of the advisory panel shall serve without  
34 compensation for a term of one year. The Superintendent shall  
35 also make every effort to ensure that the panel is representative  
36 of the state's ethnic and cultural diversity, as well as the state's  
37 diversity relative to urban, suburban, and rural areas, and is  
38 gender balanced. The department shall provide staff and  
39 resources to the advisory panel.

1     (c) Implementation of this section is subject to the availability  
2 of funding pursuant to appropriation by the Legislature in the  
3 annual Budget Act or in another statute. If state funding is not  
4 available for implementation of this section, this section may be  
5 implemented with the use of private funding that is sufficient to  
6 pay the costs of implementation.

7     ~~SEC. 5. Section 60852.9 is added to the Education Code, to~~  
8 ~~read:~~

9     ~~60852.9. (a) The sum of fifty-seven million dollars~~  
10 ~~(\$57,000,000) is hereby appropriated from the General Fund for~~  
11 ~~the 2005-06 fiscal year to the department for transfer to school~~  
12 ~~districts as a block grant for exclusive use in the schools~~  
13 ~~identified in subdivision (b) for any of the following purposes~~  
14 ~~related to providing additional support to pupils who have failed~~  
15 ~~or are at risk of failing the high school exit exam:~~

16     ~~(1) Hiring additional counselors to provide counseling for~~  
17 ~~pupils identified as being at risk of failing the high school exit~~  
18 ~~examination, particularly those in the early years of high school.~~  
19 ~~It is the intent of the Legislature that this counseling include all~~  
20 ~~of the following:~~

21     ~~(A) A review of the academic progress for the pupil, whether~~  
22 ~~the pupil is performing at grade level, and the courses, programs~~  
23 ~~and services they will need to prepare for and pass the high~~  
24 ~~school exit examination.~~

25     ~~(B) An emphasis on regular meeting and review to ensure that~~  
26 ~~the pupil is making satisfactory progress towards and is receiving~~  
27 ~~the resources, programs, and services he or she needs in order to~~  
28 ~~pass the high school exit examination.~~

29     ~~(C) An invitation and encouragement to the parent or guardian~~  
30 ~~of each pupil to participate in the counseling program.~~

31     ~~(2) Hiring additional English language arts and mathematics~~  
32 ~~teachers who are fully credentialed to teach pupils identified as~~  
33 ~~being at risk of failing the high school exit examination.~~

34     ~~(3) Class sizes of no greater than 20 pupils per teacher in~~  
35 ~~English language arts and mathematics classes and classes~~  
36 ~~providing supplemental instruction programs, pursuant to~~  
37 ~~subdivision (f) of Section 60851, for pupils failing the high~~  
38 ~~school exit examination.~~

39     ~~(b) The department shall allocate the funds specified in~~  
40 ~~subdivision (a) to high schools in which the failure rate on the~~

1 ~~first administration of either the mathematics section or the~~  
2 ~~English/language arts section of the high school exit examination~~  
3 ~~for the graduating class of 2006 is 33 percent or greater. The~~  
4 ~~funds appropriated pursuant to subdivision (a) shall be~~  
5 ~~apportioned to school districts on the basis of one thousand~~  
6 ~~eighty-six dollars (\$1,086) per pupil who took and failed the~~  
7 ~~section of the high school exit examination exhibiting the higher~~  
8 ~~overall failure rate at each eligible high school for the first~~  
9 ~~administration to the graduating class of 2006.~~

10 (e) ~~It is the intent of the Legislature that the funds apportioned~~  
11 ~~pursuant to this section are to supplement, and not take the place~~  
12 ~~of, existing funding.~~

13 ~~SEC. 6. Of the funds appropriated in Schedule \_\_\_\_ of Item~~  
14 ~~\_\_\_\_\_ of Section 2.00 of the Budget Act of 2005, the amount of~~  
15 ~~fifty-seven million dollars (\$57,000,000) shall be available for~~  
16 ~~the purposes of Section 60852.9 of the Education Code. The~~  
17 ~~balance of five hundred thousand dollars (\$500,000) is~~  
18 ~~appropriated to the State Department of Education for use as~~  
19 ~~follows: (1) four hundred thousand dollars (\$400,000) for the~~  
20 ~~purposes of Section 60852.7 of the Education Code and (2) one~~  
21 ~~hundred thousand dollars (\$100,000) for the purposes of Section~~  
22 ~~60852.8 of the Education Code.~~

23 ~~SEC. 7.—~~

24 ~~SEC. 5. If the Commission on State Mandates determines that~~  
25 ~~this act contains costs mandated by the state, reimbursement to~~  
26 ~~local agencies and school districts for those costs shall be made~~  
27 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
28 ~~4 of Title 2 of the Government Code.~~